

Neifeld Docket No: CAT/34-SCRO-US

Application/Patent No: 08/873,9747,966,222 USPTO CONFIRMATION NO: 2461

File/Issue Date: 6/12/1997/6/21/2011, CPA FILED AUGUST 17, 1999

Inventor/Title: SCROGGIE/SYSTEM AND METHOD FOR DISTRIBUTING INFORMATION
THROUGH COOPERATIVE COMMUNICATION NETWORK SITES

Examiner/ArtUnit: ROBINSON/3628

ENTITY STATUS: Large

ASSISTANT COMMISSIONER FOR PATENTS

ALEXANDRIA, VA 22313

37 CFR 1.705 APPLICATION FOR PATENT TERM ADJUSTMENT

I. Statement of the Precise Relief Requested

The patentee requests that the Director change the notice of patent term adjustment under 35 USC 154 from 2288 days to 3142 days.

II. Material Facts in Support of the Petition

1. The Director determined a 2288 day patent term extension, as noted on the patent issued June 21, 2011.

USPTO DELAY

35 USC 154(b)(1)(A)

2. This section is not applicable.

35 USC 154(b)(1)(B)

3. On March 2, 2001, the applicant filed the most recent continuing prosecution application in this application (hereinafter “effective filing date”).

4. March 2, 2004 is three years from the effective filing date.

5. On June 21, 2011, this application issued into a patent.

6. The first period of USPTO delay spans March 2, 2004 until June 21, 2011. The number of days in this period is 2667.

35 USC 154(b)(1)(C)

7. On July 10, 2001, the applicant filed a notice of appeal.

8. On July 30, 2004, the BPAI issued a decision, remanding the application “to the examiner for action consistent with the reasoning herein with regard to the rejection of claims 54, 63-69, 73-79 and 83-89 under 35 U.S.C. 103.”.

9. The second period of USPTO delay spans July 10, 2001 until July 30, 2004. The number of days in this period is 1116.

10. On December 12, 2005, the applicant filed a notice of appeal.

11. On January 31, 2008, the BPAI mailed a decision reversing the rejections of all of the pending claims.

12. The third period of USPTO delay spans December 12, 2005 until January 31, 2008. The number of days in this period is 781.

13. On August 22, 2008, the applicant filed a notice of appeal.

14. On January 20, 2011, the BPAI mailed a decision reversing the rejections claims 50-89.

15. The fourth period of USPTO delay spans August 22, 2008 until January 20, 2011. The number of days in this period is 882.

16. The total USPTO delay under 35 USC 154(b)(1)(C) is $1116 + 781 + 882 = 2779$.

OVERLAP AMONG 35 USC 154(b)(1)(A), 35 USC 154(b)(1)(B), AND 35 USC 154(b)(1)(C)

17. The first period of overlap spans March 2, 2004 until July 30, 2004. There are 150 days of overlap between the first period of USPTO delay and the second period of USPTO delay noted above.

18. The second period of overlap spans December 12, 2005 until January 31, 2008. There are 781 days of overlap between the first period of USPTO delay and the third period of USPTO delay noted above.

19. The third period of overlap spans August 22, 2008 until January 20, 2011. There are 882 days of overlap between the first period of USPTO delay and the fourth period of USPTO delay noted above.

TOTAL USPTO DELAY

20. The sum of the periods of USPTO delay are $2667 + 1116 + 781 + 882 = 5446$.

21. The sum of the periods of overlap are $150 + 781 + 882 = 1813$.

22. The total number of days of USPTO delay is $5446 - 1813 = 3633$.

APPLICANT DELAY

23. On July 10, 2001, the applicant filed a notice of appeal.

24. On September 13, 2002, the applicant filed an information disclosure statement.

25. The first period of applicant delay spans July 10, 2001 through September 13, 2002. The number of days in this period is 430.

26. On July 12, 2005, the USPTO mailed a non-final rejection.

27. On December 12, 2005, the applicant filed a notice of appeal.

28. The second period of applicant delay spans October 12, 2005 through December 12, 2005. The number of days in this period is 61.

29. The total applicant delay is $430 + 61 = 491$ days.

OTHER DELAY

30. There are no other periods of applicant delay or of USPTO delay besides the ones specified above.

31. Exhibit 1 attached hereto is an image of the Transaction History tab of PAIR for this application, showing the dates noted herein above.

III. Reasons Why the Relief Requested Should be Granted

The term extension applicable under the 35 USC 154 is calculated as follows:

A. 35 USC 154(b)(1)(A) - GUARANTEE OF PROMPT PATENT AND TRADEMARK

OFFICE RESPONSES

This section is not applicable.

B. 35 USC 154(b)(1)(B) - GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY

35 USC 154(b)(1)(B)(i) provides that the term of the patent shall be extended 1 day for each day in excess of three years from the application filing date that the PTO fails to issue an original patent, not including any time consumed by continued examination of the application requested by the applicant under section 132(b). As noted in facts 3-6 above, the number of days of 35 USC 154(b)(1)(B)(i) USPTO delay is 2667 days.

C. 35 USC 154(b)(1)(C) - GUARANTEE OR ADJUSTMENTS FOR DELAYS DUE TO INTERFERENCES, SECRECY ORDERS, AND APPEALS

35 USC 154(b)(1)(C)(iii) provides that the term of the patent shall be extended 1 day for each day of the appellate review by the Board of Patent Appeals and Interferences or by a Federal court in a case in which the patent was issued under a decision in the review reversing an adverse determination of patentability.

As noted in facts 7-16 above, the number of days of 35 USC 154(b)(1)(C)(iii) USPTO delay is 2779 days.

D. OVERLAP AMONG 35 USC 154(b)(1)(A), 35 USC 154(b)(1)(B), AND 35 USC 154(b)(1)(C)

As noted in facts 17-19 and 21 above, the number of days of overlap among 35 USC 154(b)(1)(A), 35 USC 154(b)(1)(B), AND 35 USC 154(b)(1)(C) is 1813 days.

E. APPLICANT DELAY

35 USC 154(b)(2)(C)(i) provides that the period of adjustment of the term of a patent shall be reduced by a period equal to the period of time during which the applicant failed to engage in reasonable efforts to conclude prosecution of the application.

As noted in facts 23-29 above, the total applicant delay is 491 days.

IV. Conclusion

The net patent term adjustment is $2667 + 2779 - 1813 - 491 = 3142$ days.

V. Fee under 37 CFR 1.18(e)

An EFS credit card authorization in the amount of \$200 is submitted herewith to cover the fee for filing an application for the patent term adjustment.

Date 7/3/2011

Respectfully submitted,

/BruceMargulies/

BRUCE MARGULIES

Registration No: 64,175

Attorney of Record

BTM

Printed: July 3, 2011 (10:41pm)

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Exhibit 1



United States Patent and Trademark Office

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08873,974

SYSTEM AND METHOD FOR DISTRIBUTING INFORMATION THROUGH COOPERATIVE COMMUNICATION NETWORK SITES

CAT/24-SCRO-US

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Date	Transaction Description
06-21-2011	Recordation of Patent Grant Mailed
06-02-2011	Email Notification
06-01-2011	Issue Notification Mailed
06-21-2011	Patent Issue Date Used in PTA Calculation
05-26-2011	Dispatch to FDC
05-20-2011	Application Is Considered Ready for Issue
05-14-2011	Issue Fee Payment Verified
05-14-2011	Issue Fee Payment Received
05-16-2000	Reverse Issue Fee
05-13-2011	Electronic Review
05-13-2011	Email Notification
05-13-2011	Mail Notice of Allowance
05-10-2011	Document Verification
05-10-2011	Notice of Allowance Data Verification Completed
05-10-2011	Case Docketed to Examiner in GAU
05-02-2011	Amendment/Argument after BPAI Decision
04-29-2011	Email Notification
04-29-2011	Mail Miscellaneous Communication to Applicant
04-25-2011	Miscellaneous Communication to Applicant - No Action Count
01-24-2011	Electronic Review
01-20-2011	Email Notification
01-20-2011	Mail BPAI Decision on Appeal - Affirmed in Part
01-18-2011	BPAI Decision - Examiner Affirmed in Part
11-23-2010	Miscellaneous Incoming Letter
10-06-2009	Email Notification
10-06-2009	Docketing Notice Mailed to Appellant
10-02-2009	Assignment of Appeal Number
09-23-2009	Email Notification
09-23-2009	Mail Reply Brief Noted by Examiner
09-21-2009	Appeal Awaiting BPAI Docketing
09-14-2009	Reply Brief Noted by Examiner
09-10-2009	Date Forwarded to Examiner
08-14-2009	Reply Brief Filed
07-13-2009	Appeal ready for BPAI docketing
07-08-2009	Email Notification
07-08-2009	Mail Miscellaneous Communication to Applicant
07-06-2009	Miscellaneous Communication to Applicant - No Action Count
06-24-2009	Email Notification
06-24-2009	Mail Reply Brief Noted by Examiner
06-19-2009	Return of Undocketed appeal to the TC
06-19-2009	Exam. Ans. Review Complete
06-19-2009	Reply Brief Noted by Examiner
06-16-2009	Date Forwarded to Examiner
06-08-2009	Reply Brief Filed
06-01-2009	Electronic Review
05-29-2009	Email Notification
05-29-2009	Mail Examiner's Answer
05-26-2009	Examiner's Answer to Appeal Brief
03-18-2009	Date Forwarded to Examiner
09-05-2008	Appeal Brief Filed
09-05-2008	Email Notification
09-05-2008	Notice -- Defective Appeal Brief
09-02-2008	Appeal Brief Review Complete
09-02-2008	Date Forwarded to Examiner
08-22-2008	Defective / Incomplete Appeal Brief Filed
08-22-2008	Appeal Brief Filed
08-22-2008	Notice of Appeal Filed
04-11-2005	Information Disclosure Statement considered
04-11-2005	Information Disclosure Statement (IDS) Filed

09-13-2000	Information Disclosure Statement considered
09-13-2000	Information Disclosure Statement (IDS) Filed
05-30-2008	Electronic Review
05-23-2008	Email Notification
05-23-2008	Mail Non-Final Rejection
05-21-2008	Non-Final Rejection
02-01-2008	Electronic Review
01-31-2008	Email Notification
01-31-2008	Mail BPAI Decision on Appeal - Reversed
01-29-2008	BPAI Decision - Examiner Reversed
10-05-2006	Case Docketed to Examiner in GAU
06-05-2006	Docketing Notice Mailed to Appellant
06-05-2006	Assignment of Appeal Number
05-17-2006	Appeal Awaiting BPAI Docketing
05-03-2006	Mail Reply Brief Noted by Examiner
04-29-2006	Reply Brief Noted by Examiner
04-03-2006	Date Forwarded to Examiner
03-17-2006	Reply Brief Filed
03-13-2006	Mail Examiner's Answer
03-06-2006	Examiner's Answer to Appeal Brief
12-20-2005	Date Forwarded to Examiner
12-12-2005	Appeal Brief Filed
12-12-2005	Notice of Appeal Filed
12-12-2005	Request for Extension of Time - Granted
10-06-2005	IFW TSS Processing by Tech Center Complete
05-09-2005	Miscellaneous Incoming Letter
07-12-2005	Mail Non-Final Rejection
06-24-2005	Non-Final Rejection
04-05-2005	Case Docketed to Examiner in GAU
03-09-2005	Court Processing Terminated
03-09-2005	Decision by CAFC - Dismissed
11-23-2004	Appeal to Court of Appeals
09-30-2004	Mail BPAI Decision on Reconsideration - Denied
09-30-2004	Dec on Reconsideration - Denied
08-06-2004	Request for Reconsideration of Appeal Dec
07-30-2004	Mail BPAI Decision on Appeal - Affirmed
07-29-2004	BPAI Decision - Examiner Affirmed
07-29-2004	Panel Remand to the Examiner by BPAI
04-23-2004	Docketing Notice Mailed to Appellant
04-23-2004	Assignment of Appeal Number
04-05-2004	Appeal Awaiting BPAI Docketing
10-01-2003	Mail Miscellaneous Communication to Applicant
09-30-2003	Miscellaneous Communication to Applicant - No Action Count
08-27-2003	Miscellaneous Incoming Letter
05-19-2003	Mail Reply Brief Noted by Examiner
05-18-2003	Reply Brief Noted by Examiner
05-01-2003	Date Forwarded to Examiner
04-22-2003	Reply Brief Filed
04-09-2003	IFW Scan & PACR Auto Security Review
03-11-2003	Mail Examiner's Answer
03-10-2003	Examiner's Answer to Appeal Brief
03-10-2003	Date Forwarded to Examiner
12-23-2002	Supplemental Appeal Brief
12-23-2002	Substitute Specification Filed
12-23-2002	Oath or Declaration Filed (Including Supplemental)
01-04-2003	Date Forwarded to Examiner
12-23-2002	Supplemental Appeal Brief
01-04-2003	Date Forwarded to Examiner
12-23-2002	Response after Non-Final Action
09-23-2002	Mail Non-Final Rejection
09-20-2002	Non-Final Rejection
09-19-2002	Change in Power of Attorney (May Include Associate POA)
09-18-2002	Correspondence Address Change
09-13-2002	Information Disclosure Statement (IDS) Filed
09-20-2002	Date Forwarded to Examiner
07-10-2001	Appeal Brief Filed
07-10-2001	Notice of Appeal Filed
04-23-2002	Case Docketed to Examiner in GAU
06-12-2000	Workflow - File Sent to Contractor
06-19-2001	Mail Non-Final Rejection
06-15-2001	Non-Final Rejection
04-11-2001	Amendment/Argument after Notice of Appeal
04-11-2001	Supplemental Papers - Oath or Declaration

04-18-2001	Date Forwarded to Examiner
04-11-2001	Supplemental Appeal Brief
04-06-2001	Date Forwarded to Examiner
04-06-2001	Date Forwarded to Examiner
03-02-2001	Appeal Brief Filed
03-02-2001	Notice of Appeal Filed
03-02-2001	Preliminary Amendment
04-06-2001	Date Forwarded to Examiner
03-02-2001	Continuing Prosecution Application - Continuation (ACPA)
03-02-2001	Mail Express Abandonment (During Examination)
03-02-2001	Express Abandonment (during Examination)
03-02-2001	Workflow - Request for CPA - Finish
03-09-2001	Mail Non-Final Rejection
03-08-2001	Non-Final Rejection
03-08-2001	Case Docketed to Examiner in GAU
03-08-2001	Date Forwarded to Examiner
03-08-2001	Withdrawal of Notice of Allowance
03-02-2001	Workflow - Request for CPA - Begin
03-08-2001	Date Forwarded to Examiner
03-08-2001	Withdrawal of Notice of Allowance
02-13-2001	Mail-Petition Decision - Granted
02-13-2001	Workflow - Petition - Finish
02-13-2001	Petition Entered
05-16-2000	Issue Fee Payment Verified
05-16-2000	Workflow - Drawings Finished
05-16-2000	Workflow - Drawings Matched with File at Contractor
05-16-2000	Workflow - Drawings Received at Contractor
05-16-2000	Workflow - Drawings Sent to Contractor
07-17-2000	Workflow - Complete WF Records for Drawings
04-21-2000	Mail Notice of Allowance
04-21-2000	Notice of Allowance Data Verification Completed
02-16-2000	Preliminary Amendment
02-24-2000	Date Forwarded to Examiner
02-16-2000	Continuing Prosecution Application - Continuation (ACPA)
02-16-2000	Mail Express Abandonment (During Examination)
02-16-2000	Express Abandonment (during Examination)
01-11-2000	Power to Make Copies and/or Inspect
12-14-1999	Information Disclosure Statement (IDS) Filed
12-14-1999	Information Disclosure Statement (IDS) Filed
11-16-1999	Mail Non-Final Rejection
11-15-1999	Non-Final Rejection
09-28-1999	Preliminary Amendment
09-22-1999	Change in Power of Attorney (May Include Associate POA)
09-22-1999	Change in Power of Attorney (May Include Associate POA)
09-13-1999	Date Forwarded to Examiner
08-17-1999	Continuing Prosecution Application - Continuation (ACPA)
08-17-1999	Mail Express Abandonment (During Examination)
08-17-1999	Express Abandonment (during Examination)
09-04-1999	Communication - Re: Power of Attorney (PTOL-308)
08-21-1999	Communication - Re: Power of Attorney (PTOL-308)
06-30-1999	Mail Final Rejection (PTOL - 326)
06-29-1999	Final Rejection
06-29-1999	Withdraw Publication/Pre-Exam Abandon
05-05-1999	Information Disclosure Statement (IDS) Filed
05-05-1999	Information Disclosure Statement (IDS) Filed
06-18-1999	Information Disclosure Statement (IDS) Filed
06-18-1999	Information Disclosure Statement (IDS) Filed
06-03-1999	Correspondence Address Change
05-29-1999	Mail Notice of Rescinded Abandonment
05-29-1999	Notice of Rescinded Abandonment in TCs
04-16-1999	Petition Entered
04-12-1999	Mail Abandonment for Failure to Respond to Office Action
04-12-1999	Aband. for Failure to Respond to O. A.
04-09-1999	Change in Power of Attorney (May Include Associate POA)
02-16-1999	Information Disclosure Statement (IDS) Filed
02-16-1999	Information Disclosure Statement (IDS) Filed
09-02-1998	Mail Non-Final Rejection
08-31-1998	Non-Final Rejection
04-10-1998	Case Docketed to Examiner in GAU
02-26-1998	Application Dispatched from OIPE
02-24-1998	Application Is Now Complete
11-03-1997	Notice Mailed--Application Incomplete--Filing Date Assigned
09-17-1997	IFW Scan & PACR Auto Security Review

07-22-1997 Initial Exam Team on

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